

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-071518

08/27/2013

HONORABLE MICHAEL W. KEMP

CLERK OF THE COURT

J. Bailey

Deputy

IN RE THE MATTER OF  
JENNIFER SMITH

NEIL R POSTON

AND

LUKE ALLEN SMITH

HARRY J LENABURG

CONCILIATION SERVICES-NW

HEARING

Northwest Facility, Courtroom 121

1:31 p.m. This is the time set for a Return Hearing regarding Petitioner's Expedited Petition to Enforce Parenting Time and Child Support filed July 10, 2013. Petitioner/Mother Jennifer (Smith) Crump is present and represented by counsel, Neil R. Poston. Respondent/Father Luke Smith appears by telephone and is represented by counsel, Harry J. Lenaburg, who is present in court.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Discussion is held regarding status of the case and pending issues.

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For the reasons stated on the record,

IT IS ORDERED denying Petitioner's Motion to Quash Hearing on Expedited Petition to Enforce Parenting Time and Child Support filed August 14, 2013.

IT IS FURTHER ORDERED denying Petitioner's Motion to Accelerate the Ruling on the Motion to Quash the Hearing on Expedited Petition to Enforce Parenting Time and Child Support filed August 14, 2013 as moot.

THE COURT FINDS that Arizona is the home state for the minor child herein, at least on a temporary basis, until further order of the Court.

IT IS ORDERED that the minor child, Kaitlyn Smith, born December 26, 1996, shall be returned to Arizona by September 1, 2013.

IT IS FURTHER ORDERED that the child shall be enrolled in school in Arizona.

IT IS FURTHER ORDERED granting Petitioner's Expedited Petition to Enforce Parenting Time and Child Support filed July 10, 2013, at least on a temporary basis, until further order of the Court.

IT IS FURTHER ORDERED allowing Respondent to file either a response and cross petition to modify, or a petition for relocation.

IT IS FURTHER ORDERED referring the matter to Conciliation Services for a Family Court Conciliator to interview minor child, Kaitlyn Smith, born December 26, 1996.

IT IS FURTHER ORDERED setting this matter for a confidential **Child Interview on September 16, 2013 at 10:00 a.m.** in Conciliation Services at the Maricopa County Superior Court, **Northeast Regional Court, 18380 N. 40<sup>th</sup> Street, Phoenix, Arizona.**

IT IS FURTHER ORDERED that the confidential Child Interview shall be conducted on the following basis:

1. Scope. The Court anticipates that the Conciliator may address statutory issues set forth in A.R.S. § 25-403(A)(1),(A)(2), (A)(3), (A)(4), and (A)(5) and all other matters deemed relevant by the Conciliator. The Court requests that the Conciliator consider addressing the following matters in the Interview, in addition to the statutory issues: The child shall be asked by the Conciliator if either parent discussed the interview with her or gave her any instructions as to what to say to the Conciliator.

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IT IS FURTHER ORDERED that the parent that has the child on that date shall be responsible for transporting the minor child to the above scheduled Child Interview.

IT IS FURTHER ORDERED as follows:

1. Neither parent shall discuss the interview with the child other than telling her that she will be asked questions by court personnel.
2. **There shall be absolutely no coaching of the child by either parent.**
3. Neither parent shall discuss the child interview report with the child.
4. The parties shall comply with all instruction given by Conciliation Services.

**WARNING:**

You will have to pay a \$100 fee if you do not bring the minor child to the Child Interview as ordered. If you need to reschedule, the party responsible for bringing the child to the interview must notify Conciliation Services and receive permission to reschedule at least three full court days before the session.

**NOTICE:**

In accordance with the Arizona Rules of Family Law Procedures, specifically Rule 68, subsection B, each party has the right to request that reasonable procedures be in place at Mediation to protect a victim of domestic violence. Please call Conciliation Services to request arrangements. If you wish to request a Waiver of Attendance, you must file your written request with the assigned judicial officer on the case.

IT IS FURTHER ORDERED setting an Evidentiary Hearing on October 30, 2013 at 1:30 p.m. (1.5 hours allotted) before this Division.

1:57 p.m. Matter concludes.

LATER:

The Court being unavailable,

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IT IS ORDERED vacating the Evidentiary Hearing set for October 29, 2013 at 1:30 p.m. and resetting same to an **Evidentiary Hearing on November 4, 2013 at 9:30 a.m.** (1.5 hours allotted) before the Honorable Michael W. Kemp at the Northwest Regional Court Center, Courtroom 121, 14264 W. Tierra Buena Lane, Surprise, Arizona 85374, Phone: (602) 372-0608.

The Evidentiary Hearing will address Petitioner's Expedited Petition to Enforce Parenting Time and Child Support filed July 10, 2013, and specifically, whether the minor child resides primarily with Mother in Arizona, or resides primarily with Father in Florida.

IT IS FURTHER ORDERED that each party will be allowed approximately one-half of the time allotted to present his/her case. The Court will likely reserve a portion of the time allotted to issue its ruling. The time allotted will not be extended absent a timely filed motion granted by the Court.

IT IS FURTHER ORDERED that the parties shall file and provide this Division with a copy of a **Joint Pre-Trial Statement** pursuant to Rule 76, A.R.F.L.P., no later than five (5) days prior to the hearing. If the parties are unable to prepare the Pre-Trial Statement together, each party shall file a separate Pre-Trial Statement.

IT IS FURTHER ORDERED that the Joint Pre-Trial Statement shall include a current **Parent's Worksheet for Child Support Amount** completed by each party pursuant to the Statewide Child Support Guidelines and a specific proposal for legal decision-making and parenting time by each party, if applicable.

IT IS FURTHER ORDERED that each party shall file a current **Affidavit of Financial Information** and present a copy to this Division no later than five (5) days prior to the Trial. Each party shall ensure that the opposing party receives a copy of the Affidavit of Financial Information in accordance with the discovery and disclosure deadlines set forth herein.

IT IS FURTHER ORDERED with regard to discovery and disclosure requirements:

1. All depositions and discovery contemplated by Rules 49 through 65, A.R.F.L.P., shall be completed and any motions regarding discovery shall be filed no later than 5:00 p.m. on October 9, 2013.

2. Both parties shall exchange updated disclosure statements required by Rules 49 and 50, A.R.F.L.P., including an exchange of all relevant information, documents and exhibits no later than 5:00 p.m. on October 16, 2013.

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3. Counsel and/or both parties shall personally meet, face to face (unless there is an Order of Protection in place), at least ten (10) days prior to Evidentiary Hearing, to conduct settlement discussions and narrowing of all procedural and substantive issues in this case.

4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution/company or business/medical or health care provider/employer possessing any relevant information.

IT IS FURTHER ORDERED that the failure of counsel and/or either party to appear at the time of hearing, or to timely present the Joint Pre-Hearing Statement in proper form shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 70(D), A.R.F.L.P. and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

NOTICE: You may request conclusions of fact and law on the following issues, if contested: child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the Court before the trial or evidentiary hearing. If you make a written request before the trial or evidentiary hearing, the Court will make conclusions of fact and law as part of the final decision. If any party asks the Court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings must also be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pretrial Statement.

IT IS FURTHER ORDERED as follows:

1. Any and all exhibits shall be delivered to this Division at least five (5) business days prior to the hearing. Exhibits shall not be filed at the Clerk of Court filing counter.

2. The exhibit packet shall contain a title page which states the case number, whether the exhibits are Petitioner's or Respondent's and the date for the Trial. Failure to clearly indicate which party is presenting the exhibits may result in the exhibits being marked incorrectly.

3. Each exhibit shall be stapled if it contains more than one page and shall be clearly separated from the other exhibits, preferably by placing a colored page in between each exhibit. Failure to clearly separate each exhibit may result in the exhibits being marked differently than counsel and/or the parties intended, such as multiple exhibits being marked as one exhibit.

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4. Exhibits will be marked in numerical order, most likely in the order received. The parties will receive an exhibit worksheet at the time of hearing which will be the master list.

5. Each party shall provide the adverse party with a separate copy of all exhibits. Each party should keep a copy of the exhibits for themselves as exhibits turned into the Court are kept by the Court. Copies of exhibits may be obtained from the Exhibits Department at the Customer Service Center after conclusion of the hearing.

Counsel and/or the parties are reminded of their obligation to give prompt notice of any settlement to the Court as required by Rule 70, A.R.F.L.P.

**WARNING:** Failure of counsel and/or either party to appear at the time of hearing, shall in the absence of good cause shown result in the imposition of any and all available sanctions pursuant to Rule 70(D), A.R.F.L.P. and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party. The Court may issue a warrant for the arrest of the non-appearing party. If both parties fail to appear, the entire case, or pending pleadings, may be dismissed without further notice to either party.

IT IS FURTHER ORDERED signing this minute entry as a formal order of the Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

August 27, 2013

/s/ Michael W. Kemp

\_\_\_\_\_  
DATE

\_\_\_\_\_  
HONORABLE MICHAEL W. KEMP  
SUPERIOR COURT JUDGE

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.